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May 31, 2016

BY ECF

Honorable Paul G. Gardephe
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: Kenneth Creighton v. City of New York, et al., 1:12-cv-07454-PGG-DCF

Your Honor:

I am a Senior Counsel in the Office of Zachary W. Carter, Corporation Counsel of the City of New York, and the attorney representing defendants in the above-referenced matter. I am writing on behalf of defendants, and with the consent of plaintiff's counsel, to respectfully request an extension of time to file any moving papers with respect to any motions for summary judgment, from June 9, 2016 to June 27, 2016.

Although discovery was previously set to close in this case on May 9, 2016, due to a variety of issues that arose during discovery, discovery was extended by Order of Magistrate Judge Freeman to May 27, 2016. *See* Docket No. 136. The parties just completed plaintiff's deposition on Friday, May 27, 2016. In addition, a number of key witnesses, including the "confidential informant," a non-party N.Y.P.D. detective, and defendant Bruce Birns were deposed over the last week.

The undersigned is mindful of the delays in this case however, a June 9, 2016 deadline to file moving papers with respect to motions for summary judgment would place an enormous burden on the parties. The parties would essentially have less than two weeks from the close of discovery to prepare and submit its motion papers. In addition, in light of the recency of the depositions of several of the key witnesses in this case, the testimony of whom will bear directly on the parties' motion papers, sufficient time is needed in order to receive and review the transcripts of their deposition testimony. The proposed extension provides for thirty (30) days from the close of the discovery to file summary judgment moving papers, which should provide

the parties with sufficient time to receive, review, and digest the recent deposition testimony and incorporate the substance of that testimony into their moving papers as needed.¹

Pursuant to Your Honor's Order, defendants still intend to file a letter responding to plaintiff's May 26, 2016 letter and describing the legal and factual basis for their proposed summary judgment motion on June 2, 2016. However, for the reasons outlined above, defendants respectfully request, on consent from plaintiff's counsel, that Your Honor extend the deadline to file any moving papers with respect to any motions for summary judgment to June 27, 2016.

In the event that Your Honor grants this extension request, defendants respectfully propose the following schedule:

- Moving papers with respect to all motions due on June 27, 2016
- Opposition papers due on July 11, 2016
- Replies, if any, due on July 18, 2016
- Joint pretrial order, motions *in limine*, proposed *voir dire*, and requests to charge due on August 1, 2016
- Any responsive papers due on August 8, 2016

The proposed schedule above does not affect the October 3, 2016 date set for trial. Defendants have not previously requested an extension of time in this regard.

Thank for you for your consideration of this matter.

Respectfully submitted,

/s/ Gavin Thadani

Kavin Thadani
Senior Counsel
Special Federal Litigation Division

¹ Defendants note that, as of the date of this letter, they have not received the complete deposition transcripts of the following witnesses: (1) non-party A.D.A. Teresa Gottlieb (deposed on April 27, 2016), (2) defendant A.D.A. Bruce Birns (deposed on May 23, 2016), (3) the "confidential informant" (deposition completed May 25, 2016), (4) non-party detective Paul La Duca (deposed on May 26, 2016), and (5) plaintiff (deposition completed May 27, 2016).

cc: **BY ECF**
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